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SCHWABE, WILLIAMSON & WYATT, P.C.  
PACWEST CENTER, SUITE 1900  
1211 SW FIFTH AVENUE  
PORTLAND, OR 97204

EXAMINER

PHAM, KHANH B

ART UNIT PAPER NUMBER

2167

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Best Available Copy

## Office Action Summary

Application No.

09/575,403

Applicant(s)

CHANEY ET AL.

Examiner

Khanh B. Pham

Art Unit

2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,9,11,17 and 43-74 is/are pending in the application.
- 4a) Of the above claim(s) 1,9,11,17 and 43-62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 63-74 is/are rejected.
- 7) ☒ Claim(s) 63 and 67 is/are objected to.
- 8) ☒ Claim(s) 1,9,11,17 and 43-62 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1, 9, 11, 17, 43-62 drawn to a method for managing metadata of audio or video content files, classified in class 707, subclass 102.
  - II. Claims 63-74 drawn to a method for displaying metadata associated with audio files, classified in class 715, subclass 716.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions of group I and group II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the invention of group I has separate utility such as manipulating and generating database or data structure based on metadata associated with audio or video files, while invention of group II has separate utility such as providing a user interface for controlling and playing audio files. See MPEP § 806.05(d).
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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5. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

7. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

8. During a telephone conversation with Mr. Al AuYeung, Applicant's representative on May 25, 2005 a provisional election was made without traverse to prosecute the invention of group II, claims 63-74. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1, 9, 11, 17, 43-62 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Continued Examination Under 37 CFR 1.114***

10. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's supplemental amendment filed on December 29, 2004 has been entered.

***Claim Objections***

11. **Claims 63, 67** objected to because of the following informalities:

Claims 63, 67 recite the limitation "the genre" in line 4. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. **Claims 63-74** are rejected under 35 U.S.C. 102(e) as being anticipated by Duwaer et al. (US 5,959,627 A), hereinafter "Duwaer".

**As per claim 63**, Duwaer teaches a method for managing metadata of audio content files using an electronic device, the method comprising:

- “displaying on a display of the electronic device, a column having a plurality of rows of track names (Fig. 4, element 159) corresponding to a plurality of audio content files of the genre (Fig. 4, element 21)” at Figs. 4-5;
- “displaying on a display of the electronic device, either a column having a plurality of corresponding rows of artist names (Fig. 4, element 56) corresponding to the track names, or a column having a plurality of corresponding rows of album names (Fig. 4, element 14) corresponding to the track names” at Figs. 4-5.

**As per claim 64**, Duwaer teaches the method of claim 63, wherein “the method further comprises receiving a selection of a genre of audio content files, and the displaying are performed in response to the receiving, the plurality of audio content files being audio content files of the selected genre (Fig. 5, element 72)” at Fig. 5.

**As per claim 65**, Duwaer teaches the method of claim 64, wherein the method comprises “receiving a new metadata value for a metadata field of a metadata record corresponding to a displayed track name, and in response, propagating the new metadata value to the corresponding metafile of each corresponding metadata record of the audio content files of the selected genre” at Col. 3 lines 10-25 and Fig. 3.

**As per claim 66**, Duwaer teaches the method of claim 63, wherein the method further comprises “receiving a selection of one of the displayed track names, and in response, rendering the audio content of the audio content file corresponding to the selected displayed track name” at Col. 4 lines 40-45 and Fig. 5.

**As per claim 67**, Duwaer teaches a method for managing metadata of audio content files using an electronic device, the method comprising:

- “displaying on a display of the electronic device, a column having a plurality of rows of track names (Fig. 4, 159) corresponding to a plurality of audio content files of the genre (Fig. 4, 21)” at Figs. 4-5
- “displaying on a display, either a column with corresponding rows of album names (Fig. 4, 14) corresponding to the track names (Fig. 4, 159), or a column with corresponding rows of genre names (Fig. 4, 21) corresponding to the track names” at Figs. 4-5

**As per claim 68**, Duwaer teaches the method of claim 67, wherein the method further comprises receiving an artist name, and the displaying are performed in response to the receiving, the plurality of audio content files being audio content files of an artist with the artist name” at Fig. 5.

**As per claim 69**, Duwaer teaches the method of claim 68, wherein “the method comprises receiving a new metadata value for a metadata field of a metadata record corresponding to a displayed track name, and in response, propagating the new metadata value to the corresponding metafile of each corresponding metadata record of the audio content files of the selected artist name” at Col. 3 lines 10-25 and Fig. 3.

**As per claim 70**, teaches the method of claim 67, wherein the method further comprises “receiving a selection of one of the displayed track names, and in response, rendering the audio content of the audio content file corresponding to the selected displayed track name” at Col. 4 lines 40-45 and Fig. 5.

**As per claim 71**, Duwaer teaches a method for managing metadata of audio content files using an electronic device, the method comprising:

- “displaying on a display of the electronic device, a column having a plurality of rows of track names (Fig. 4, 159) corresponding to a plurality of audio content files” at Figs. 4-5;
- “displaying on a display of the electronic device, either a column comprising corresponding rows of artist names (Fig. 4, 56) corresponding to the track names (Fig. 4, 159), or a column comprising corresponding rows of genre names (Fig. 4, 21) corresponding to the track names” at Figs. 4-5.

**As per claim 72**, Duwaer teaches the method of claim 71, wherein the method further comprises “receiving a selection of an album name, and the displaying are performed in response to the receiving, the plurality of audio content files being audio content files of an album with the selected album name” at Fig. 5.

**As per claim 73**, Duwaer teaches the method of claim 72, wherein the method comprises “receiving a new metadata value for a metadata field of a metadata record corresponding to a displayed track name, and in response, propagating the new metadata value to the corresponding metafile of each corresponding metadata record of the audio content files of the selected album name” at Col. 3 lines 10-25 and Fig. 3.

**As per claim 74**, Duwaer teaches the method of claim 71, wherein the method further comprises “receiving a selection of one of the displayed track names, and in response, rendering the audio content of the audio content file corresponding to the selected displayed track name” at Col. 4 lines 40-45 and Fig. 5.



***Response to Arguments***

13. Applicant's arguments filed December 29, 2004 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

14. The prior art made of record, listed on form PTO-892, and not relied upon, if any, is considered pertinent to applicant's disclosure.

If a reference indicated as being mailed on PTO-FORM 892 has not been enclosed in this action, please contact Lisa Craney whose telephone number is (571) 272-3574 for faster service.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh B. Pham whose telephone number is (571) 272-4116. The examiner can normally be reached on Monday through Friday 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khanh B. Pham  
Examiner  
Art Unit 2167

May 27, 2005

A handwritten signature in cursive script, reading "Khanh B. Pham", with a long horizontal flourish underneath.